

Budget Brief – DAS Administrative Rules

NUMBER CFGO-07-06

SUMMARY

The Division of Administrative Rules establishes procedures for administrative rulemaking, records administrative rules, and makes administrative rules available to the public.

The division also administers the Utah Administrative Rulemaking Act and ensures state agencies comply with filing, publication and hearing procedures. To accomplish these mandates, the division provides training to agency rule writers and administrators, performs individual consultations, publishes a periodic newsletter, and distributes the *Rulewriting Manual for Utah*. The division provides regular notices to agencies of rules due for five-year review or rules about to expire.

ISSUES AND RECOMMENDATIONS

eRules application replacement

The Analyst recommends an FY 2007 supplemental one-time appropriation of \$71,500 from the General Fund to replace the eRules software application.

eRules is a web-enabled filing and publishing system constructed with one-time funds between 1999 and 2001. The software is an improvement over the former paper-based filing system. The Department of Technology Services has notified the division that critical components of the application, such as MS BizTalk v. 1, would soon not be supported by Microsoft. Since January 2006, efforts to fix minor bugs have been unsuccessful. The environment is becoming less stable and agencies are experiencing problems with downtime.

The division will add another \$55,500 from its nonlapsing funds and its system support budget, for a total of \$127,000. Within this amount, DTS will do all the reprogramming, make additions to the Oracle database behind the system, and add a reporting module.

Figure 1: Administrative Services - Administrative Rules - Budget History

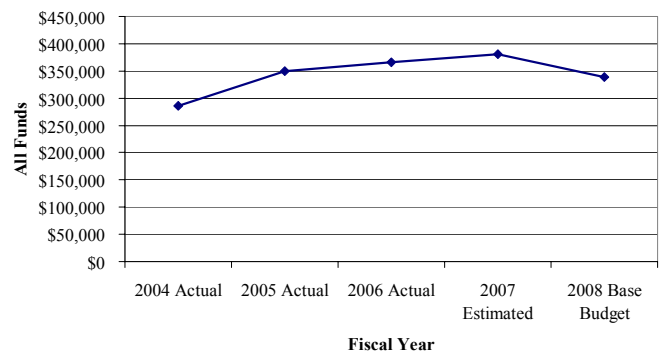


Figure 2: Administrative Services - Administrative Rules - FTE History

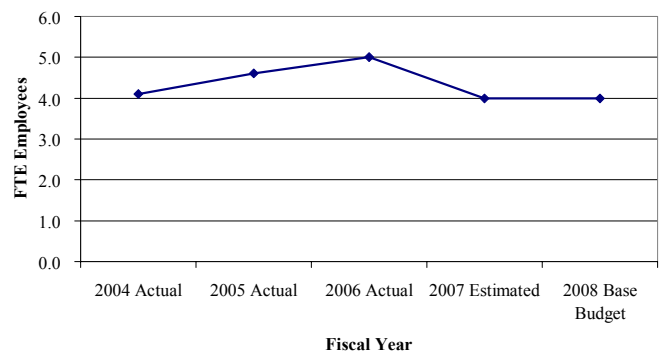
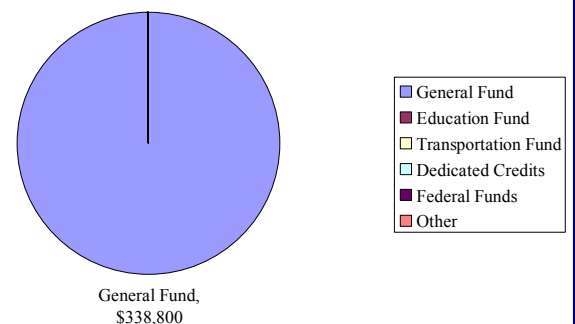
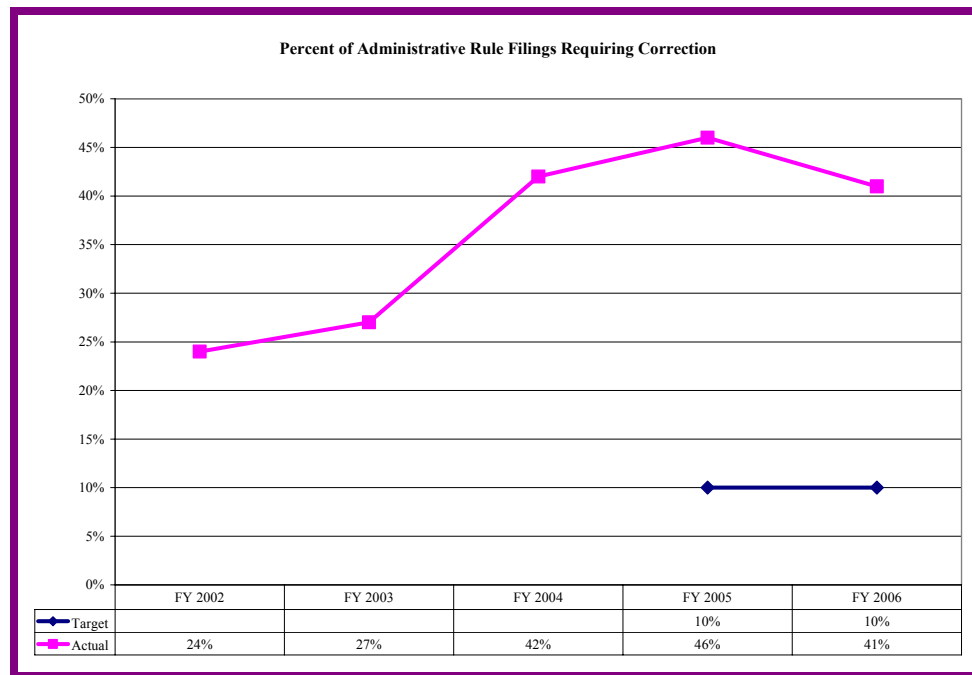


Figure 3: Administrative Services - Administrative Rules - FY 2008 Funding Mix

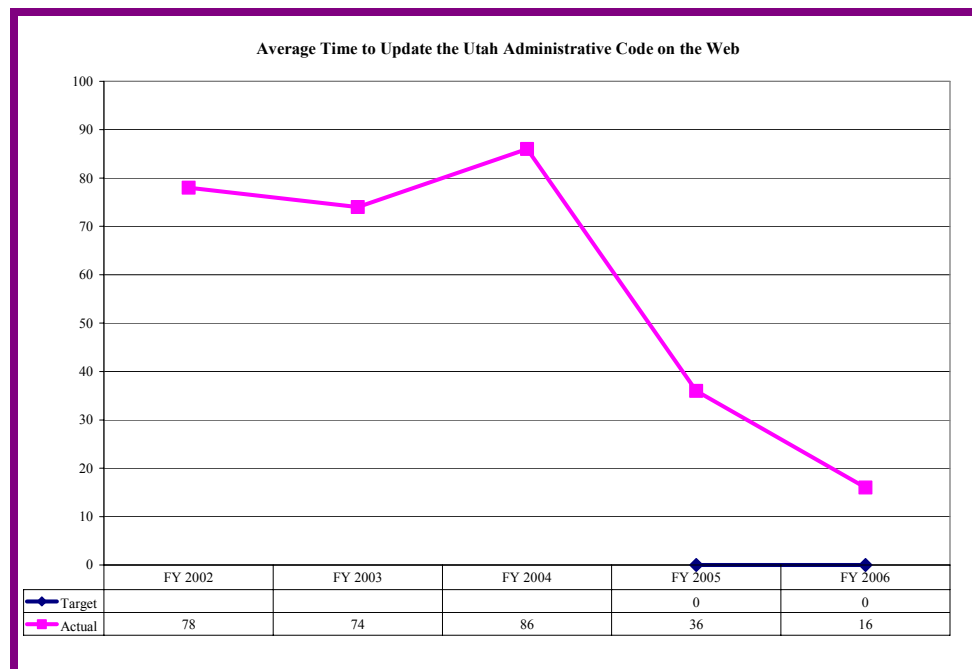


ACCOUNTABILITY DETAIL***Percent of Agency Rule Filings Requiring Correction***

It is much easier to challenge a rule on procedural grounds than on substantive grounds. To help protect the state from procedural challenges, the division reviews rule filings to make sure certain minimum requirements have been met. Rules that do not meet the minimum requirements are returned to the agency for correction.



The goal is no more than a ten percent error rate. Approximately 41 percent of rules filed in FY 2006 required correction by the originating agency. The division reports it did an initial cursory review of all rule filings within three working days, giving all agencies a chance to respond. In spite of the high error rate, no successful procedural challenges have occurred because of a filing or publication error.

Average Time to Update the Administrative Code on the Web

Timely availability of the Utah Administrative Code (effective rules) plays a critical role in how Utah's regulatory system works. Public access to administrative rules increases the likelihood of compliance. Public access also provides citizens with an understanding of government's expectations and requirements. Being informed, citizens can then act accordingly or recommend changes to rules.

The division made great improvement from an average of 86 days late in FY 2004 to 16 days late in FY 2006. However, it still needs to improve to reach its goal of zero days late.

BUDGET DETAIL

UCA 63-46a-10(5) gives this budget nonlapsing authority for funds appropriated or collected for the division's publications. To offset rising workload and to correct agency errors, the 2004 and 2005 Legislatures each provided \$55,000 per year in one-time funds to hire a contract employee to assist with agency training and rules publication.

Dedicated Credits of \$57,200 in FY 2005 represent one-time grant money from two foundations for an Alternative Dispute Resolution (ADR) program. The two previous governors issued executive orders assigning ADR to the Department of Administrative Services. The grant money was used to hire a temporary ADR coordinator who did a broad survey of whether such a program had potential to benefit the state. No ongoing funding has been approved to continue this program.

Budget Recommendation for FY 2007 and FY 2008:

The Analyst recommends a total FY 2008 base appropriation of \$338,800 entirely from the General Fund. Further, the Analyst recommends an FY 2007 supplemental one-time appropriation of \$71,500 from the General Fund to replace the eRules software application.

Intent Language

The Analyst recommends the Legislature adopt the following supplemental intent language for Fiscal Year 2007:

Under terms of UCA 63-38-8.1(3), the Legislature intends not to lapse Item 34, Chapter 1, or Item 36, Chapter 366, Laws of Utah 2006. Expenditure of these funds is limited to: Rule filing and publication system - \$60,000.

LEGISLATIVE ACTION

The Analyst recommends the Legislature adopt:

1. A total base appropriation of \$338,800 for the Division of Administrative Rules.
2. An FY 2007 supplemental one-time appropriation of \$71,500 from the General Fund to replace the eRules software application.
3. Intent language making the FY 2007 appropriation nonlapsing but limited to uses specified in the language.

BUDGET DETAIL TABLE

Administrative Services - Administrative Rules						
Sources of Finance	FY 2006 Actual	FY 2007 Appropriated	Changes	FY 2007 Revised	Changes	FY 2008* Base Budget
General Fund	295,500	338,800	0	338,800	0	338,800
General Fund, One-time	6,400	(900)	0	(900)	900	0
Risk Management ISF	55,000	0	0	0	0	0
Beginning Nonlapsing	52,500	0	43,500	43,500	(43,500)	0
Closing Nonlapsing	(43,500)	0	0	0	0	0
Lapsing Balance	(100)	0	0	0	0	0
Total	\$365,800	\$337,900	\$43,500	\$381,400	(\$42,600)	\$338,800
Programs						
DAR Administration	365,800	337,900	43,500	381,400	(42,600)	338,800
Total	\$365,800	\$337,900	\$43,500	\$381,400	(\$42,600)	\$338,800
Categories of Expenditure						
Personal Services	322,400	285,500	4,300	289,800	600	290,400
In-State Travel	200	0	100	100	0	100
Out of State Travel	4,500	3,800	700	4,500	0	4,500
Current Expense	14,300	23,800	(4,800)	19,000	0	19,000
DP Current Expense	24,400	24,800	43,200	68,000	(43,200)	24,800
Total	\$365,800	\$337,900	\$43,500	\$381,400	(\$42,600)	\$338,800
Other Data						
Budgeted FTE	5.0	4.0	0.0	4.0	0.0	4.0
Actual FTE	5.0	0.0	0.0	0.0	0.0	0.0

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.